

JS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

KATHERINE MANNING

(b) County of Residence of First Listed Plaintiff _____

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant _____

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input checked="" type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 510 Selective Service	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Securities/Commodities/ Exchange	<input type="checkbox"/> 520 HIA (1395ff)	
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 530 General	
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 535 Death Penalty	
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 540 Mandamus & Other
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 562 Black Lung (923)	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 563 DIWC/DIWW (405(g))	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 564 SSID Title XVI	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 565 RSI (405(g))	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	FEDERAL TAX SUITS	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 570 Taxes (U.S. Plaintiff or Defendant)	
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 579 I.R.S.—Third Party 26 USC 7609	
IMMIGRATION				
		<input type="checkbox"/> 462 Naturalization Application		
		<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		
		<input type="checkbox"/> 465 Other Immigration Actions		
			Appeal to District Judge from Magistrate Judgment	

V. ORIGIN

(Place an "X" in One Box Only)

 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstate or Reopened 5 Transferred from another district (specify) _____ 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

13 U.S.C SECTION 1692

VI. CAUSE OF ACTIONBrief description of cause:
Fair Debt Collection Practices Act**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23**DEMANDS**

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

Explanation:

DATE

SIGNATURE OF ATTORNEY OF RECORD

05/29/12

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 405 Mill Creek Trails, Swanee, GA 30024
 Address of Defendant: 507 Prudential Rd., Horsham PA 19044

Place of Accident, Incident or Transaction: _____
 (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
 (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes No

Does this case involve multidistrict litigation possibilities? Yes No

RELATED CASE, IF ANY:
 Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
 Yes No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
 Yes No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
 Yes No
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
 Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases S.V.S.C. § 1692
 (Please specify)

B. Diversity Jurisdiction Cases:

1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 05/29/12

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 05/29/12

Attorney-at-Law

57100

Attorney I.D.#

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

KATHERINE MANNING : CIVIL ACTION

:
v. :
:
:

NCO FINANCIAL SYSTEMS, INC. : NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

05/29/12

Date

Craig Thor Kimmel

Attorney-at-law

Plaintiff, Katherine Manning

Attorney for

215-540-8888

Telephone

877-788-2864

FAX Number

kimmel@creditlaw.com

E-Mail Address

**UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

KATHERINE MANNING,)
Plaintiff)
v.)
NCO FINANCIAL SYSTEMS, INC.,) Case No.:
Defendant)
) COMPLAINT AND DEMAND FOR JURY
) TRIAL
) (Unlawful Debt Collection Practices)

COMPLAINT

KATHERINE MANNING (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy;” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant's corporate headquarters is located in the Commonwealth of Pennsylvania, therefore personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

PARTIES

5. Plaintiff is a natural person residing in Swain, Georgia 30024.

1 6. Plaintiff is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

2 7. Defendant is a national debt collection company with corporate headquarters
3 located at 507 Prudential Road, Horsham, PA 19044.

4 8. Defendant is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).

5 9. Defendant acted through its agents, employees, officers, members, directors,
6 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

7 **FACTUAL ALLEGATIONS**

8 10. At all pertinent times hereto, Defendant was hired to collect a consumer debt and
9 attempted to collect that debt from Plaintiff.

10 11. The debt at issue, a Capital One credit card, arose out of transactions that were
11 primarily for personal, family, or household purposes.

12 12. Beginning in September 2011, and continuing through February 2012, Defendant
13 repeatedly contacted Plaintiff on her cellular telephone seeking and demanding payment of the
14 alleged debt.

15 13. Plaintiff regularly received collection calls from the following phone number:
16 (845) 770-0071, which the undersigned has confirmed is a telephone number belonging to
17 Defendant.

18 14. On average, Defendant contacted Plaintiff once a day.

19 15. Plaintiff knew that it was Defendant calling because she has received voicemail
20 messages for Defendant stating that it was "NCO Financial calling for Katherine Manning," and
21 she has answered some of the calls and spoken with Defendant's collectors.

22 16. For example, on at least one occasion, Defendant's collector told Plaintiff that if
23 she failed to pay the amount it demanded that Defendant would continue to call her every day.

24 17. Defendant used its collection calls as a means of harassing, annoying and abusing

1 Plaintiff.

2 18. Upon information and belief, Defendant threatened to call Plaintiff on a repetitive
3 and continuous basis with the intent of harassing, abusing and annoying Plaintiff, believing that
4 to do so would cause Plaintiff to make payment on the alleged debt.

5 19. Additionally, in January 2012, while speaking to a collector, Plaintiff demanded
6 that Defendant stop calling her on her cellular telephone.

7 20. Defendant failed to adhere to Plaintiff's demand, and continued to place phone
8 calls to her cellular telephone.

9 21. Defendant had actual knowledge that its calls were not wanted, and to not call
10 again.

12 22. Defendant had no reason to continue calling after being told to stop, and knew
13 that further calls would only serve to upset, harass and abuse Plaintiff.

14 23. Additionally, in January and February 2012, Defendant's collectors attempted to
15 obtain payment of the debt by false means, claiming that the debt had not yet been reported to
16 credit reporting agencies on her credit report and that the matter would not appear on her credit
17 report if she paid. However when Plaintiff checked her credit report immediately thereafter, she
18 saw that the debt had been reported.

19 24. On February 4, 2012, Defendant had so abused, upset and harassed Plaintiff that
20 she concluded it there was no choice but to pay what was claimed if she wanted the collection
21 calls to stop. As such, she reluctantly made a \$675.00 payment by telephone to Defendant.

23 25. Despite having paid the debt in full, Defendant again contacted Plaintiff seeking
24 payment, when Defendant had no purpose for placing the call except to further harass abuse and
25 upset her.

1
2 **DEFENDANT VIOLATED**
3 **THE FAIR DEBT COLLECTION PRACTICES ACT**

4
5 **COUNT I**

6 26. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C.
7 §§1692d and 1692d(5).

- 8
9 a. Section 1692d of the FDCPA prohibits a debt collector from engaging in any
10 conduct the natural consequences of which is to harass, oppress, or abuse any
11 person in connection with the collection of a debt.
- 12 b. Section 1692d(5) of the FDCPA prohibits a debt collector from causing a
13 telephone to ring or engaging any person in telephone conversation repeatedly
14 or continuously with the intent to annoy, abuse, or harass any person at the
15 called number.
- 16 c. Defendant violated §§1692d and 1692d(5) of the FDCPA when it repeatedly
17 contacted Plaintiff, almost every day, with the purpose of annoying and
18 harassing her into paying the debt.
- 19 d. Further, Defendant violated §1692d of the FDCPA by repeatedly contacting
20 Plaintiff on her cellular telephone after having been told that she didn't want
21 to be contacted on her cellular telephone, having the purpose to annoy, abuse
22 and harass Plaintiff.

23
24 **COUNT II**

25 27. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C.
26 §§1692e and 1692e(10).

- 1 a. Section 1692e of the FDCPA prohibits a debt collector from using any false,
2 deceptive, or misleading representation or means in connection with the
3 collection of any debt.
- 4 b. Section 1692e(10) of the FDCPA prohibits a debt collector from using any
5 false representation or deceptive means to collect or attempt to collect any
6 debt or to obtain information concerning a consumer.
- 7 c. Defendant violated §§1692e and 1692e(10) of the FDCPA when it falsely
8 informed Plaintiff that the debt would not appear on her credit report, when in
9 fact the debt had already been reported on Plaintiff's credit report.

COUNT III

12 28. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C.
13 §1692f.

- 14 a. A debt collector violates §1692f of the FDCPA by using unfair or
15 unconscionable means to collect or attempt to collect any debt.
- 16 b. Here, Defendant violated §1692f of the FDCPA engaging in other unfair and
17 unconscionable debt collection practices, including telling Plaintiff it would
18 call her every day until she paid the alleged debt and continuing to call
19 Plaintiff after she had paid the debt in full.

PRAYER FOR RELIEF

21 WHEREFORE, Plaintiff, KATHERINE MANNING, respectfully prays for a judgment as
22 follows:

- 23 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- 24 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to
25 15 U.S.C. § 1692k(a)(2)(A);

- 1 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
2 costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3);
3 d. Any other relief deemed appropriate by this Honorable Court.

4 **DEMAND FOR JURY TRIAL**

5 PLEASE TAKE NOTICE that Plaintiff, KATHERINE MANNING, demands a jury trial
6 in this case.

7
8 DATED: 05/29/12

KIMMEL & SILVERMAN, P.C.

9 By:

10 Craig Thor Kimmel
11 Attorney ID # 57100
12 Attorney for Plaintiff
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